

JUN 17 2008

**Board of Vocational Nursing
and Psychiatric Technicians**

EDMUND G. BROWN JR., Attorney General
of the State of California
FRANK H. PACOE
Supervising Deputy Attorney General
JUSTIN R. SURBER, State Bar No. 226937
Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 355-5437
Facsimile: (415) 703-1234

Attorneys for Complainant

**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2006-2256

TINA MARIE GOMEZ
312 Lang Street # B
Salinas, CA 93901

A C C U S A T I O N

Vocational Nurse License No. 187270

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.
2. On or about February 5, 1999, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number 187270 to Tina Marie Gomez (Respondent). The Vocational Nurse License expired on July 31, 2006, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise

1 indicated.

2 **STATUTORY PROVISIONS**

3 4. **Section 118(b)** of the Business and Professions Code (Code) provides, in
4 pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed
5 with a disciplinary action during the period within which the license may be renewed, restored,
6 reissued or reinstated.

7 5. **Section 490** of the Code provides, in pertinent part, that the Board may
8 suspend or revoke a license when it finds that the licensee has been convicted of a crime
9 substantially related to the qualifications, functions or duties of a licensed vocational nurse.

10 6. **Section 2875** of the Code provides, in pertinent part, that the Board may
11 discipline the holder of a vocational nurse license for any reason provided in Article 3
12 (commencing with section 2875) of the Vocational Nursing Practice Act.

13 7. **Section 2878** of the Code states:

14 "The Board may suspend or revoke a license issued under this chapter [the
15 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

16 "(a) Unprofessional conduct...

17 ...

18 "(f) Conviction of a crime substantially related to the qualifications, functions,
19 and duties of a licensed vocational nurse, in which event the record of the conviction shall be
20 conclusive evidence of the conviction...

21 ...

22 "(j) The commission of any act involving dishonesty, when that action is related
23 to the duties and functions of the licensee."

24 8. **Section 2878.6** of the Code states:

25 "A plea or verdict of guilty or a conviction following a plea of nolo contendere
26 made to a charge substantially related to the qualifications, functions and duties of a licensed
27 vocational nurse is deemed to be a conviction within the meaning of this article..."

28 ///

1 aluminum foil. The purse was designed to evade the security alarms. When police searched
2 Respondent's vehicle they found several items from nearby stores and a second purse lined with
3 aluminum foil.

4 13. On or about August 17, 2007, before the Monterey County Superior Court,
5 Case No. MS255932A, Respondent was convicted on an a plea of Nolo Contendere of violating
6 Penal Code sections 666/484(a), petty theft with a prior burglary conviction. The circumstances
7 leading to Respondents's conviction are as follows:

8 a. On or about May 30, 2007, Respondent took several items from the
9 Northridge Mall JC Penny without paying for those items. At the time Respondent took the
10 items from JC Penny she had previously been convicted of violating Penal Code section 459,
11 burglary (as described in paragraph 14(b)).

12 OTHER MATTERS

13 14. To determine the degree of discipline, if any, to be imposed on
14 Respondent, Complainant alleges that Respondent has a long history of criminal convictions and
15 discipline as follows:

16 a. On or about June 15, 2004, the Board issued citation No. 04-0075-
17 L in which Respondent was fined \$750. The circumstances leading to Respondent's citation are
18 described in subparagraph b.

19 b. On or about January 9, 2004, before the Santa Cruz Superior Court,
20 Case No. F06121 Respondent was convicted on a plea of nolo contendere of violating Penal
21 Code section 459, burglary. Respondent burglarized a Longs Drugs on or about August 8, 2002.

22 c. On or about June 15, 2000, before the Santa Cruz Superior Court,
23 Case No. W00956, Respondent was convicted on a plea of guilty of violating Penal Code section
24 594(a), vandalism. On or about June 4, 2000, Respondent vandalized her husband's car by
25 breaking the windows with stones or bricks.

26 d. In 1992, before the Monterey County Municipal Court, Case No.
27 108294A, Respondent was convicted of violating Penal Code section 242, Battery and Penal
28 Code section 148, obstructing an officer.

1 e. In 1992, before the San Benito Municipal Court, Case No. 23850,
2 Respondent was convicted of violating Penal Code section 647(f), public intoxication.

3 Respondent had a blood alcohol level of .21 and had been driving.

4 f. In 1992, before the Monterey County Municipal Court, Case No.
5 046383, Respondent was convicted of violating Vehicle Code section 14601.1, driving on a
6 suspended license.

7 g. In 1991, before the Monterey County Superior Court, Case No.
8 MSCR98866, Respondent was convicted of violating Penal Code section 242, battery.

9 **FIRST CAUSE FOR DISCIPLINE**

10 (Unprofessional Conduct)

11 15. Respondent is subject to disciplinary action under Section 2878(a) of the
12 Code in that she engaged in unprofessional conduct. The circumstances are set forth in
13 paragraphs 12-13, above.

14 **SECOND CAUSE FOR DISCIPLINE**

15 (Unprofessional Conduct-Substantially Related Conviction)

16 16. Respondent is subject to disciplinary action under sections 490 and
17 Section 2878(f) of the Code and California Code of Regulations, title 16, section 2521, in that
18 Respondent was convicted of crimes substantially related to the qualifications, functions, and
19 duties of a licensed vocational nurse. The circumstances are set forth in paragraphs 12-13,
20 above.

21 **THIRD CAUSE FOR DISCIPLINE**

22 (Act Involving Dishonesty)

23 17. Respondent is subject to disciplinary action under Section 2878(j) of the
24 Code in that she committed acts involving dishonesty that are substantially related to the duties
25 and functions of a vocational nurse. The circumstances of those acts are set forth in paragraphs
26 12-13, above.

27 ///

28 ///

1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric
4 Technicians issue a decision:

- 5 1. Revoking or suspending Vocational Nurse License Number 187270,
6 issued to Tina Marie Gomez.
- 7 2. Ordering Tina Marie Gomez to pay the Board of Vocational Nursing and
8 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
9 pursuant to Business and Professions Code section 125.3;
- 10 3. Taking such other and further action as deemed necessary and proper.
- 11

12 DATED: June 17, 2008

13

14 

15 TERESA BELLO-JONES, J.D., M.S.N., R.N.
16 Executive Officer
17 Board of Vocational Nursing and Psychiatric Technicians
18 Department of Consumer Affairs
19 State of California
20 Complainant

21 40234652.wpd
22 SF2008400944
23
24
25
26
27
28